



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2013-0420; FRL- 9844-8]

Approval and Promulgation of State Implementation Plans: Alaska;

Fairbanks Carbon Monoxide Limited Maintenance Plan and

State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve a carbon monoxide (CO) Limited Maintenance Plan (LMP) for the Fairbanks Area, and associated revisions to sections of the Fairbanks Transportation Control Program, submitted by the State of Alaska (the State) as a revision to its State Implementation Plan (SIP) dated April 22, 2013. In accordance with the requirements of the Federal Clean Air Act (the Act), the EPA is approving this SIP revision because it demonstrates that the Fairbanks Area will maintain the CO National Ambient Air Quality Standards (NAAQS) through the second 10-year maintenance period.

DATES: This rule is effective on **[Insert date 60 days after date of publication in the Federal Register]**, without further notice, unless the EPA receives adverse comment by **[Insert date 30 days after date of publication in the Federal Register]**. If the EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2013-0420, by any of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- E-mail: R10-Public_Comments@epa.gov
- Mail: Keith Rose, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT-107),
1200 Sixth Avenue, Suite 900, Seattle WA, 98101
- Hand Delivery / Courier: U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle
WA, 98101. Attention: Keith Rose, Office of Air, Waste and Toxics, AWT - 107. Such
deliveries are only accepted during normal hours of operation, and special arrangements
should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R10-OAR-2013-0420. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for

clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Keith Rose at telephone number: (206) 553-1949, e-mail address: rose.keith@epa.gov, fax number: (206) 553-0110, or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we”, “us” or “our” are used, we mean the EPA. Information is organized as follows:

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I. What is the Purpose of this Action?

The EPA is taking direct final action to approve the CO LMP for the Fairbanks Area, and associated revisions to sections of the Fairbanks Transportation Control Program, submitted by Alaska as a SIP revision dated April 22, 2013. The CO LMP submitted by the State of Alaska is

designed to keep the Fairbanks Area in attainment with the CO standard for a second 10-year period beyond redesignation.

The EPA is taking no action on 18 AAC 50.030, State Air Quality Control Plan, which adopts by reference Volumes II and III of the State Air Quality Control Plan and other documents (as a matter of state law), whether or not they have yet been submitted to or approved by the EPA.

II. What is the Background for this Action?

Under Section 107(d)(1)(c) of the CAA, each CO area designated nonattainment prior to enactment of the 1990 Amendments, such as the Fairbanks Area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either “moderate” or “serious” depending on the severity of the area’s air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Fairbanks Area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. *See* 56 FR 56712 (November 6, 1991).

On February 27, 1998, the EPA made a final finding that the Fairbanks CO nonattainment area did not attain the CO NAAQS under the CAA mandated attainment date of December 31, 1995 for moderate nonattainment areas. As a result of that finding, which went into effect on March 30, 1998, the Fairbanks CO nonattainment area was reclassified as serious (63 FR 9945). Alaska had 18 months or until October 1, 1999, to submit a new SIP demonstrating attainment of the CO NAAQS as expeditiously as practicable, but no later than December 31, 2000, the CAA attainment date for serious areas.

Notwithstanding significant efforts by Alaska to complete the CO SIP for the Fairbanks Area, the State failed to meet the October 1, 1999 deadline for the required SIP submission. On April 3, 2000, the EPA published a notice in the *Federal Register* stating that initial, mandatory sanctions would be triggered if a new attainment plan was not submitted by October 2, 2001 (65 FR 17444). In March 2001, Alaska submitted a request to the EPA for an extension of the attainment date to December 31, 2001, and the EPA approved this request on May 25, 2001 (66 FR 28836). Alaska submitted an attainment plan on August 30, 2001 and the EPA approved the plan on February 4, 2002 (67 FR 5064). On July 5, 2002, the EPA determined that the Fairbanks Area attained the CO NAAQS by the December 31, 2001 attainment date (67 FR 44769).

The State of Alaska submitted a 10-year maintenance plan and redesignation request for the Fairbanks Area on June 21, 2004. The EPA approved this maintenance plan and redesignated the Fairbanks Area to attainment on July 27, 2004 (69 FR 44601). The State subsequently submitted three revisions to the Alaska SIP relating to the motor vehicle inspection and maintenance (I/M) program in Fairbanks: a March 29, 2002 submittal containing minor revisions to the statewide I/M program; a December 11, 2006 submittal containing more substantial revisions to the statewide I/M program; and a June 5, 2008 submittal containing major revisions to the statewide I/M program discontinuing the I/M program in Fairbanks as an active control measure in the SIP and shifting it to a contingency measure. The EPA approved these revisions on March 22, 2010 (75 FR 13436).

Per CAA section 175A(b), Alaska's current SIP submittal provides a second 10-year CO maintenance plan for the Fairbanks Area. In addition, the plan is consistent with the elements of a LMP as outlined in an EPA October 6, 1995 memorandum from Joseph Paisie, the Group

Leader of the Integrated Policy and Strategies Group, titled, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas". To qualify for the LMP Option, the CO design value for an area, based on the eight consecutive quarters (2 years of data) used to demonstrate attainment, must be at or below 7.65 ppm (85 percent of the 8-hour CO NAAQS). The EPA has determined that the LMP Option for CO is also available to all states as part of the CAA 175A(b) update to the maintenance plans, regardless of the original nonattainment classification, or lack thereof. Thus, the EPA observes that although the Fairbanks Area was designated as a serious nonattainment area for the CO NAAQS, redesignation to attainment status in conjunction with meeting all requirements of the October 6, 1995, memorandum, allows the State to be eligible to submit a LMP as the update to its original maintenance plan per section 175A(b) of the CAA.

III. Evaluation of Alaska's Submittal

The EPA has reviewed Alaska's SIP submittal for the Fairbanks Area. The following is a summary of the requirements for a LMP and the EPA's evaluation of how each requirement has been met by the SIP submittal.

A. Base Year Emissions Inventory

The maintenance plan must contain an attainment year emission inventory to identify a level of CO emissions in the area that is sufficient to attain the CO NAAQS. The April 22, 2013 SIP submittal contains a summary of the CO emissions inventory for the Fairbanks Area for the base year 2005. This summary is based on the Fairbanks emission inventory adopted by the State on April 4, 2008 (Volume III, Appendix IIIC.3) and includes updates made in 2012¹. The emission inventory includes an on-road vehicle emission inventory based on the EPA's MOVES

¹ The memo dated November 20, 2012, to Cindy Heil of the State of Alaska from Sierra Research titled "Summary of Inventory Revisions to the 2008 Fairbanks CO Maintenance Plan", describing the emissions inventory update is included in the docket.

2010b² vehicle emissions model, a more accurate estimate of residential wood burning emissions in the Fairbanks area, and an estimate of non-road emissions based on the most recent information on snowmobile use in the Fairbanks Area. The methods used to determine the Fairbanks CO emission inventory are consistent with the EPA's most recent guidance on developing emission inventories. Because violations of the CO NAAQS are most likely to occur on winter weekdays, the inventory prepared is for a "typical winter day". The table below shows the estimated tons of CO emitted per winter day by source category for the 2005 base year.

2005 Emission Inventory, Main Source Category Subtotals

Main Source Category	CO Emissions Tons per Winter Day
Point Sources	3.09
Onroad Mobile Sources	45.48
Non-road Mobile Sources	14.80
Area Sources	19.69
Total	83.06

B. Demonstration of Maintenance

The 8-hour CO NAAQS is attained when the annual second highest 8-hour average CO concentration for an area does not exceed a concentration of 9.0 ppm. The last monitored violation of the CO NAAQS in Fairbanks occurred in 1999, and monitored CO levels have been steadily in decline ever since. The 2012 second highest 8-hour CO concentration for the Fairbanks Area is 3.6 ppm, which is in attainment with the CO NAAQS.

For areas using the CO LMP Option, the maintenance plan demonstration requirement is considered to be satisfied when the second highest 8-hour CO concentration is at or below 7.65

² MOVES is the EPA's state-of-the-art tool for estimating emissions from on-road mobile sources. MOVES 2012b is the latest version of MOVES and was released in April 2012. Details on MOVES can be found at <http://www.epa.gov/otaq/models/moves>.

ppm (85 percent of the CO NAAQS) for 8 consecutive quarters. The second highest 8-hour CO concentration for the Fairbanks Area for the most recent 8 quarters (2011-2012) was 3.6 ppm, which is significantly below the LMP Option requirement of 7.65 ppm. Therefore, the State has demonstrated that the Fairbanks Area qualifies for the LMP Option.

With the LMP Option, there is no requirement to project emissions of air quality over the upcoming maintenance period. The EPA believes that if the area begins the maintenance period at, or below, 85 percent of the level of the CO 8-hour NAAQS, the applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and Federal control measures already in place should provide adequate assurance of maintenance over the 10-year maintenance period.

C. Monitoring Network and Verification of Continued Attainment

To comply with national ambient air monitoring requirements, and to better understand Fairbanks' air quality problems, the State of Alaska has operated a CO monitoring network in the Fairbanks Area since the 1970s. In 1985, the Fairbanks monitoring network consisted of three sites, including a downtown site called the Old Post Office site, which recorded the highest concentrations of CO of all three monitors since 2004. In recognition of declining CO concentrations in the Fairbanks Area, Alaska reduced the Fairbanks CO monitoring network to just the Old Post Office site in 2009 with approval from the EPA.

To verify the attainment status of the area over the maintenance period, the LMP must contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR part 58. The State of Alaska has an approved monitoring network that includes CO monitoring in the Fairbanks Area that was most recently approved by the EPA

on October 25, 2012. In the Fairbanks CO LMP, the State commits to maintaining a CO monitoring network to verify continued attainment of the NAAQS.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. In its April 22, 2013 submittal, the State of Alaska continued with the contingency plan that is currently in place. The contingency plan includes six possible contingency measures that could be implemented if the Fairbanks Area fails to attain the CO NAAQS. These measures are:

1. Increased public awareness;
2. Enhanced public transit;
3. Expansion of the supply of plug-ins;
4. Altered signal timing;
5. Roadway improvements; and
6. Reintroduction of the Inspection and Maintenance program.

In the event that monitoring data indicate that a violation of the CO NAAQS has occurred, the Fairbanks North Star Borough (FNSB) would examine the data to assess the spatial extent and severity of the episode, as well as trends over time. Based on this assessment, the FNSB in consultation with the Alaska Department of Environmental Conservation (ADEC) would determine which of the above measures to implement.

IV. Transportation and General Conformity

Transportation conformity is required by section 176(c) of the CAA. The EPA's conformity rule requires that transportation plans, programs, and projects that are funded under

23 U.S.C. or the Federal Transit Act conform to SIPs. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The transportation conformity rule (40 CFR parts 51 and 93) and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While the EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the CO NAAQS would result. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the "budget test" specified in section 93.158 (a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

While areas with maintenance plans approved under the LMP Option are not subject to the budget test, the areas remain subject to other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

- a. Transportation plans and projects provide for timely implementation of SIP transportation control measures in accordance with 40 CFR 93.113;

- b. Transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108;
- c. The MPO's interagency consultation procedures meet applicable requirements of 40 CFR 93.105;
- d. Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;
- e. The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;
- f. Projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and
- g. Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

The EPA confers regularly with the Fairbanks Metropolitan Area Transportation System technical and policy committees, ADEC, the Alaska Department of Transportation & Public Facilities, the Federal Highway Administration, and the Federal Transit Administration to review the Transportation Improvement Plan for the Fairbanks Area to determine if the area is meeting the transportation conformity requirements under 40 CFR part 93, subpart A. The Fairbanks Area is currently meeting the requirements of 40 CFR part 93, subpart A.

V. Final Action

In accordance with the requirements of the Federal CAA, the EPA is approving the CO LMP for the Fairbanks Area (Volume II, Section III.C.12 of the State Air Quality Control Plan,

adopted February 22, 2013) submitted by Alaska on April 22, 2013 as a revision to the Alaska SIP because the State adequately demonstrates that the Fairbanks Area will maintain the CO NAAQS and meet all the requirements of a LMP through the second 10-year maintenance period. In this action, the EPA is also approving the following revised sections of the Fairbanks Transportation Control Program (Volume II, Section III.C): Air Quality Emissions Data (Section III.C.3), Carbon Monoxide Network Monitoring Program (Section III.C.4), Modeling and Projections (Section III.C.6), and Air Quality Conformity Procedures (Section III.C.10); and the following revised sections of the Appendices to Volume II of the Fairbanks Transportation Control Program (Volume III): Section III.C.1 and Section III.C.10, all of which were included in the April 22, 2013 SIP submittal.

The EPA is taking no action on any section related to 18 AAC 50.030, State Air Quality Control Plan, because the EPA takes action directly, as appropriate, on the specific provisions in the State Air Quality Control Plan that have been submitted by the State, so it is unnecessary for the EPA to approve 18 AAC 50.030. The federally-approved SIP consists only of regulations and other requirements that have been submitted by the State and approved by the EPA.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, the EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [insert date 60 days after publication in the Federal Register] without further notice unless the Agency receives adverse comments by [insert date 30 days after publication in the Federal Register]. If the EPA receives such comments, then the EPA will

publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [insert date 60 days publication in the Federal Register] and no further action will be taken on the proposed rule.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States

prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register].

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 23, 2013.

Michelle L. Pirzadeh,
Acting Regional Administrator,
Region 10.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart C--Alaska

2. Section 52.73 is amended by adding paragraph (a)(2)(ii) to read as follows:

§52.73 Approval of plans.

(a) * * *

(2) * * *

(ii) The EPA approves as a revision to the Alaska State Implementation Plan, the Fairbanks Carbon Monoxide Limited Maintenance Plan (Volume II, Section III.C.12 of the State Air Quality Control Plan, adopted February 22, 2013) submitted by the Alaska Department of Environmental Conservation on April 22, 2013. In this action, the EPA is also approving the following revised sections of the Fairbanks Transportation Control Program (Volume II, Section III.C): Air Quality Emissions Data (Section III.C.3), Carbon Monoxide Network Monitoring Program (Section III.C.4), Modeling and Projections (Section III.C.6), and Air Quality Conformity Procedures (Section III.C.10); and the following revised sections of the Appendices to Volume II of the Fairbanks Transportation Control Program (Volume III): Section III.C.1 and Section III.C.10, all of which were included in the April 22, 2013 SIP submittal.

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[FR Doc. 2013-19203 Filed 08/08/2013 at 8:45 am; Publication Date: 08/09/2013]